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DONNA CORBELLO

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DONNA CORBELLO, an individual,  
  
Plaintiff,  
  
vs.  
  
THOMAS GAETANO DEVITO, an  
individual, *et al.*,  
  
Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

ORDER FOR LEAVE  
TO FILE UNDER SEAL CERTAIN  
EXHIBITS TO PLAINTIFF'S  
EMERGENCY OBJECTION TO  
MAGISTRATE JUDGE'S APRIL 15,  
2011 ORDERS

Plaintiff Donna Corbello, by her attorneys, and pursuant to the *Stipulated Protective Order* (Doc. 94) entered into by the parties, and the Court's *Protective Order Governing Confidentiality of Documents* entered on January 5, 2009 ("Order Regarding Sealing

Requirements”) (Doc. 95), herewith requests leave to file certain documents under seal as exhibits to *Plaintiff’s Emergency Objection To Magistrate Judge’s April 15, 2011 Orders*.

**MEMORANDUM OF POINTS AND AUTHORITIES**

Pursuant to her obligations under the *Stipulated Protective Order* and *Order Regarding Sealing Requirements*, Plaintiff seeks an order permitting her to file the following documents under seal, which were produced by Defendants Frankie Valli, Robert J. Gaudio, Marshall Brickman, Eric S. Elice, DSHT, Inc., Dodger Theatricals, Inc., and/or JB Viva Vegas, LP (the “New Defendants”), and/or by third party Kevin Kinsella (“Kinsella”), and marked “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” thereby, which she intends to attach as exhibits to her *Emergency Objection To Magistrate Judge’s April 15, 2011 Orders*:

- KINSELLA-007654 through -007655, consisting pages of a partnership agreement.
- Exhibit 5 is defendant Dodger Theatricals, Inc.’s relevant, written discovery responses.
- KINSELLA-000227 through -000238, consisting of an audited financial statement.
- JB-0086305 through JB-0086316, consisting pages of a Subscription Agreement for Jersey Boys Toronto.
- JB-0085624 through JB-0085628, consisting pages of an Operating Agreement for Jersey Boys Australia Investor, LLC.
- JB-0085523 through JB-0085526, consisting pages of a Limited Partnership Agreement for JB London Investor LP.
- JB-0087053 through JB-0087056, consisting pages of a licensing agreement from defendant Jersey Boys Broadway LP.
- JB-0027040 through JB-0027044, consisting pages of a financial statement for JB Viva Vegas, LP.
- Exhibit 13 consists of an e-mail attaching an expense summary for defendant Valli and Gaudio.

- 1 • Exhibit 14 consists of a spreadsheet summarizing information from financial
- 2 statements.
- 3 • Exhibit 17 consists of a spreadsheet summarizing information from tax
- 4 documents.
- 5 • JB-0079466 through JB-0079468, consisting of a QuickBooks account for royalty
- 6 payments.
- 7 • JB-0087214 through JB-0087218, consisting of an agreement between various
- 8 defendants.

### 9 I. ARGUMENT

10 There is an exception to the normal presumption of access to judicial records, for “sealed  
 11 discovery document[s] [attached] to a non-dispositive motion,” such that “the usual presumption  
 12 of the public's right of access is rebutted.” *Kamakana v. City & County of Honolulu*, 447 F.3d  
 13 1172, 1179-1180 (9th Cir. 2006) (citing *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213  
 14 (9th Cir. 2002)). The public has less of a need for access to court records attached only to non-  
 15 dispositive motions because those documents are often “‘unrelated, or only tangentially related,  
 16 to the underlying cause of action.’” *Id.* (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33,  
 17 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984)). Moreover, “public policies that support the right of  
 18 access to dispositive motions, and related materials, do not apply with equal force to non-  
 19 dispositive materials.” *Id.* (citing *Phillips*, 307 F.3d at 1213). Finally, when a district court  
 20 grants a protective order to seal documents during discovery, “it already has determined that  
 21 ‘good cause’ exists to protect this information from being disclosed to the public by balancing  
 22 the needs for discovery against the need for confidentiality.” *Id.* Accordingly, “good cause”  
 23 exists for the filing of the foregoing documents under seal.

24 Pursuant to the *Stipulated Protective Order* herein, Plaintiff has an obligation to maintain  
 25 the confidentiality of any document marked “CONFIDENTIAL” or “HIGHLY  
 26 CONFIDENTIAL” by an opposing party, and the documents identified above were so marked by  
 27 the New Defendants and Kinsella. Accordingly, Plaintiff may not file the documents with the  
 28 Court without obtaining an Order and/or filing them under seal. Whereas, Plaintiff’s *Emergency*

1 *Objection To Magistrate Judge's April 15, 2011 Orders* is not a dispositive motion, the filing of  
2 these documents under seal falls within the exception to the general presumption of public access  
3 carved out by the courts of this Circuit for documents attached to non-dispositive motions.  
4 Accordingly, leave to file the subject documents under seal should be granted.

5 **II. CONCLUSION**

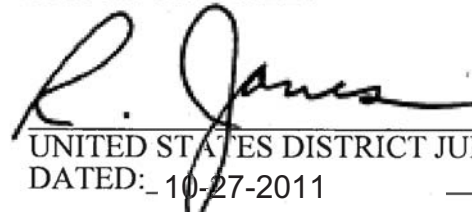
6 IN VIEW OF THE ABOVE, Plaintiff respectfully requests that her present motion be  
7 granted.

8 Dated: May 5, 2011

9 RESPECTFULLY SUBMITTED:

10  
11 /s/Robert H. McKirgan  
12 Gregory H. Guillot  
13 George L. Paul  
14 John L. Krieger  
15 Robert H. McKirgan  
16 Attorneys for Plaintiff, Donna Corbello

17  
18  
19 IT IS SO ORDERED:

20  
21   
22 UNITED STATES DISTRICT JUDGE  
23 DATED: 10-27-2011